

The 10th January, 1985

No. 9/5/84-6Lab/100.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Ambala in respect of the dispute between the workmen and the management of M/s P.H. & H.P. Area Canteen, 6 K. E. Lines, Ambala Cantt:—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,  
AMBALA AT AMBALA CITY

Ref. Nos. 28, 29 & 34 of 1984

SARVSHRI RAGHUBIR SINGH, SOHAN SINGH & DIDAR SINGH, WORKMEN AND THE  
MANAGEMENT OF PH & HP AREA CANTEEN, 6-K.E. LINES, AMBALA CANTT

Present:—Shri Janak Raj Sharma for the workmen.

Shri J.S. Kohli for the respondent.

#### AWARD

The Hon'ble Governor of Haryana in exercise of the powers conferred,— vide clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the following disputes between Raghubir Singh, Sohan Singh & Didar Singh, workmen and the Management of PH & HP Area Canteen, 6 KE Lines, Ambala Cantt. The terms of the references are as under:—

“Whether the termination of services of Sarvshri Raghubir Singh, Sohan Singh & Didar Singh workmen was justified and in order? If not, to what relief, are they entitled to?”

Since common question of law and similar facts in all the three references narrated above are involved, so all the three references have been taken up together for discussion as well as delivering awards.

To trace out the history of all the three references between Sarvshri Raghubir Singh, Sohan Singh and Didar Singh, workmen and PH & HP Area Canteen, 6 KE Lines, Ambala Cantt. briefly narrated the facts alleged by the parties are as under:—

Raghubir Singh, workman alleged that he was recruited by the respondent as a Salesman on 1st July, 1970 and his services were terminated on 30th September, 1983. At that time he was drawing Rs. 565 PM as a pay. The termination order is illegal, *mea fide* because mandatory provisions of Section 25 (F) of the Industrial Disputes Act, 1947 were not complied with. It was further alleged that the principle of 1st come last go was not observed.

Shri Sohan Singh, workman alleged that he remained in the employment of respondent for 2 years, thereafter his services were terminated on 30th September, 1983. During this period he had been working to the satisfaction of the respondent. At the time of termination of his services he was not apprised with the reason of retrenchment, moreover no retrenchment compensation was awarded to him.

Shri Didar Singh, workman made assertions in his application that he joined the services of the respondent as a Salesman on 4th July, 1977, he had been serving to the satisfaction of respondent-management but on 30th September, 1984 his services were terminated without any good cause and without making any payment of compensation towards his retrenchment.

All the three workmen urged that this termination of their services are bad in law and they are entitled to be termed in service since the day of termination of their orders with full back wages and all the benefits.

The respondent-management has contested all the three references and has assailed the contents of the applicants contending that respondent is not an industry. The dispute in question does not fall within the purview of the Industrial Disputes Act, 1947. The respondent Golden Line Canteen is not an industry in the meaning of Section 2 of the Industrial Disputes Act, 1947. Respondent Canteen is being run for the welfare of serving army personnel as well as for the welfare of ex-servicemen. It was further contended that applicants already moved the Ld. Civil Courts at Ambala where they have failed to prove their claims, so they cannot agitate the same claims under the Industrial Disputes Act, 1947 in the Labour Court, Ambala. It was also contended that the respondent-management has got its own standing orders. The management and its employees are governed under these standing orders. When applicants joined the service of respondent the service conditions which exist in the standing orders were made known to them. Applicants in agreement with these conditions joined the service of respondent, before terminating their services one month's notice was issued to them and thereafter their services were terminated according to rules and bye-laws which exist in the standing orders referred above. So claims made by the applicants are baseless not maintainable, and be dismissed.

On the pleadings of the parties, the following issues were framed for the just discussions of the controversy between the parties:—

**Issues—**

- (1) Whether the services of applicants were terminated illegally,—*vide* orders dated 30th September, 1983, if so, its effect? OPA
- (2) Whether application is not maintainable as alleged? OPR
- (3) Relief?

I have gone through the oral and documentary evidence adduced by the parties which is available in the file and have heard Shri Rajeshwar Nath and Janak Raj Sharma for the applicants and Shri J.S. Kohli for the respondent-management. My issue wise findings are as under:—

**Issue No. 1 —**

This issue is the major issue which will decide the destiny of the parties involved in all the three references in hand.

Before switching on discussion on law it would be beneficial to critically read and refer the evidence which has come from both the sides.

Shri Raghubir Singh, workman examined himself as AW-1. He deposed on oath that on 1st July, 1970 he joined as a Salesman in the service of respondent and was terminated on 30th September, 1983. Shri Sohan Singh also appeared as AW-1 deposed that he served the respondent for 2 years and was terminated on 30th September, 1983. Shri Didar Singh, workman also appeared in the witness box as AW-1 made statement that he joined service of the respondent on 4th July, 1977 and was terminated on 30th September, 1983. All the three workmen further deposed that they used to receive their pay from the sales proceeds from the respondents canteen. They have been confirmed by the respondent but no confirmation letter was produced by them.

To rebut the evidence of applicants, respondents examined Shri S. Mehta, Lt., Col. as RW-1. He admitted that all the three workers were employees of respondents. Respondent-management has got no permanent strength of its permanent employees it varies from time to time, on the basis of workload of the canteen. He further deposed that the applicants as well as other employees of the respondents are governed by standing orders of the respondent canteen. It was further stated by him that services of the applicants were no longer required, so notices were issued to them. Copy of notice is Ex. RW-1. The respondent canteen is a welfare canteen, it does not make profit.

The main onus was upon the respondent-managements to justify its orders of termination of all the workers. To justify the above facts Shri J.S. Kohli advanced three-fold arguments:—

Firstly : argued that respondent canteen is not an industry;

Secondly ' he submitted that all the three workers have tried their lot in the Civil Court but they have lost their claims;

Thirdly : it was urged that the orders of termination has been ordered in accordance with the special standing orders by which the Canteen's management and its employees are governed.

Shri Rajeshwar Nath assisted by Shri Janak Raj Sharma refuted the above arguments asserting that respondent-management is an industry. He further submitted that no final adjudication ever took place in the Civil Court. He further submitted that no intimation regarding termination of services of all the three workers were given to the appropriate Government. Moreover retrenchment compensation was also not awarded to them.

Keeping in view the above evidence & arguments advanced as well as after affording thoughtful consideration to the whole matter, I reach at the conclusion that respondent canteen falls within the ambit of industry. I would like to refer here definition of industry which has been mentioned in section 2 of such section (j) of the Industrial Disputes Act, 1947 which reads that "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature).

"The words which find place in the definition of industry, namely, Distribution of goods is a sufficient signal to arrive at the conclusion that respondent canteen is an industry, because the main factor of the responden

canteen is to purchase goods from the market and to distribute the same as per reasonable rates among the serving personnel of the Army as well as to ex-servicemen. The main contention of the Ld. counsel for the respondent that the Canteen is run on no profit no loss basis is not a good argument because it has been observed in AIR 1978 (SC) Page 548 that even if the Distribution of Canteen commodity is made on no profit no loss basis even then it can not go out of the ambit of definition of Industry. It was further observed that absence of profits motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector."

In view of the above facts and law discussed thereto it has become evident that the respondent Canteen is an industry. All the three workers Raghbir Singh, etc. have dispute with respondents canteen, so the present dispute are industrial dispute which fully covers in the definition of Industrial Disputes as laid down U/s 2(k) of Industrial Disputes Act, 1947 which specifically reads that industrial disputes mean differences between employer and workers, etc.

The second point which is agitated before the undersigned by all the three workmen is that Shri Raghbir Singh, etc. have gone to Civil Court and their matters has been disposed of. In this context I would like to say that no doubt all the three workers knocked the doors of the Civil Court but they withdrew their cases and did not seek final adjudication, so section 11 of Civil Procedure Code underneath principal of resjudicata laid down is not applicable in the dispute in hand.

Thirdly it was admitted fact on the file as it is claim for the adverse of all the three workers that their services were governed by the standing orders and with special agreement of the respondent. After completing six months service in other words probation periods the workers could leave the job after issuing one month notice vice versa. This condition is laid down under section 4 of Canteen Rules which reads as under:—

"All new employees will serve on probation for 6 months. Their permanent employment will be confirmed in writing by Chairman. During probation period their services can be terminated without any notice. After their employment is confirmed, employees may terminate their engagement after giving one month's notice to Chairman and vice versa."

In view of the above conditions it is evident that notices were issued to all the three workers regarding termination of their services, it has been admitted by them.

It has not come in the evidence that intimations regarding termination of their services was not given to Appropriate Government a part pleaded not supported in evidence cannot be looked into.

There is no evidence on the file that junior to present three workers had been kept respondent management in its service. In the absence of any evidence on the point, the workers cannot take any benefits.

The only point which is left from their relief is that no retrenchment compensation was awarded to them, so I think that all the 3 workers are only entitled to relief of compensation of retrenchment as available under the Act, so issue No. 1 is disposed of accordingly.

#### Issue No. 2

This issue is a matter of fact I have already covered in my discussion in issue No. 1. There I have specifically hold that the present dispute is an Industrial dispute because respondent canteen is an industry and these references are triable by this court. Moreover I have also given findings that all the three workers filed 3 civil suits in the Civil Court but these civil suits were got dismissed as withdrawn. No final adjudication was done by the Civil Court so all the three references are maintainable in this Court. So this issue is decided in the negative in other words in favour of the workman against the management.

#### Issue No. 3

For the foregoing reasons and my issue-wise findings I am of the view that termination orders are up to the maximum enter justified except non payment of retrenchment compensation. I do not consider it proper to thrust upon the respondent to all the three workers that they be kept in the service of respondent because that would be un-justified. In view of judicial pronouncement (1977) 2 Labour Law Journal Page 137;

1977 SLWR Page 291

1977 (34) Factory Law Reporter Page 405 (DB) Madras

In the above judicial pronouncement it was observed that Labour Court coming to opinion that to force the employee back into service would not be conducive to good industrial relations and ordering compensation—Decision of Labour Court could not be perverse—Labour Court has discretion either to order—reinstatement or compensation.

In view of my above discussion I only order retrenchment compensation in favour of applicants workmen and not their back reemployment. I pass awards accordingly regarding the dispute in question. One copy of each award be placed on all the three references.

Dated 15th November, 1984./30th November, 1984.

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

Ensl. No. 936, dated Ambala City the 10th December, 1984.

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

(Sd.).

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

The 18th January, 1985

**No. 9/5/884-6Lab./342.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. National Dairy Research Institute, Karnal.

**BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD**

**Reference No. 375/1982**

*between*

**SHRI PREM SINGH, WORKMAN AND THE MANAGEMENT OF M/S. NATIONAL DAIRY RESEARCH INSTITUTE, KARNAL.**

*Present:*—Shri Prem Singh, workman in person.  
Shri Raj Kumar, for the management.

#### AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Prem Singh workman and the Management of M/s. National Dairy Research Institute, Karnal, to this Tribunal, for adjudication:—

Whether the termination of services of Shri Prem Singh was justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to both the parties. In the claim statement filed on 24th January, 1983, it was alleged that the claimant was employed as Attendant on 18th January, 1975 in the respondent-management and rendered meritorious services. It was then alleged that the services of the claimant were terminated by the respondent,—*vide* letter, dated 30th September, 1981 without giving any show cause notice or serving any charge-sheet, which was against the rules of natural justice, and as such the claimant was entitled to reinstatement with full backwages.

3. The respondent in their written statement, dated 22nd February, 1983, pleaded *inter alia* that the respondent institute was not an industry as defined in the Industrial Disputes Act, 1947, nor the claimant was a workman. It was further pleaded that the services of the claimant were terminated on account of mis-behaviour, etc. the details of which were given in the written statement.

4. The claimant in his replication, dated 23rd March, 1983, reiterated the pleas taken in the claim statement.

5. A preliminary objection has been raised by the respondent to the effect that respondent is a research station of the Indian Council of Agricultural Research, Krishi Bhavan, New Delhi, which is under the control

of the Ministry of Agriculture, Government of India and that the respondent institute functions under the authority of the Central Government and that the appropriate Government competent to deal with any industrial dispute is only the Central Government and as such the reference made by the Haryana Government is bad in law. It has been argued that Indian Council of Agricultural Research is an autonomous body and was financed by the Government of India. In para No. 6 of the appointment letter it is mentioned that the appointment may be terminated without assigning any reason by one month notice on either side under rule 5 of the Central Civil Service (Temporary Service) Employees Rules, 1965 as applicable *mutatis mutandis* to the employees of the Council. Rule 2-A of the Rules of India-Council of Agricultural Research lays down that the expression "Society" means the Indian Council of Agricultural Research, a Society registered under the Societies' Registration Act, 1850. Reliance has been placed on the award, dated 29th October, 1982 passed by the Presiding Officer, Labour Court, Madurai, in which it was held that the Central Tobacco Research, Institute, Research Station, Vedsandur, was being run under the authority of the Government of India and that the appropriate Government would be the Central Government to make any reference under the Industrial Disputes Act, 1947. It may be mentioned that according to the latest amendment in the Industrial Disputes Act, 1947, which came into force on 21st August, 1984, the scientific research or training institutes have been excluded from the scope of the expression 'Industry' as defined in Section 2-A of the Industrial Disputes Act, 1947. The present dispute between the parties, however, arose prior to the coming into force of this amendment in as much as reference was made in the year 1982. Therefore, the preliminary objection raised by the respondent prevails and it is held that the reference made by the Haryana Government is not proper and that this Tribunal has no jurisdiction to decide the present reference. The award is passed accordingly.

Dated 9th January, 1985.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 53, dated 10th March, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/884-6 Lab/343.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Director, National Dairy Research Institute, Karnal.

BEFORE SHRI R.N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 244/1982

between

SHRI JASBIR SINGH, WORKMAN AND THE MANAGEMENT OF M/S. DIRECTOR, NATIONAL  
DAIRY RESEARCH INSTITUTE, KARNAL.

Present:—Shri Jasbir Singh, workman in person.  
Shri Raj Kumar for the management.

#### AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Jasbir Singh, workman and the management of M/s. National Dairy Research Institute, Karnal, to this Tribunal, for adjudication:—

Whether the termination of services of Shri Jasbir Singh was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. In the claimant statement filed on 16th September, 1982, it was alleged that the claimant was employed as Supervisor in Dairy Vikas Kendra Shamgarh on 1st January, 1980 and rendered meritorious services. It was then alleged that the services of the claimant were terminated by the respondent,—vide letter, dated 1st December, 1981 without giving any show cause notice or serving any charge-sheet, which was against the rules of natural justice and as such the claimant was entitled to reinstatement with full backwages.

3. The respondent in their written statement filed on 13th December, 1981, pleaded, *inter alia* that the respondent institute was not an industry as defined in the Industrial Disputes Act, 1947 nor the claimant was a workman. It was further pleaded that the services of the claimant were terminated on account of mis-behaviour, etc., the details of which were given in the written statement.

4. A preliminary objection has been raised by the respondent to the effect that respondent is a research station of the Indian Council of Agricultural Research, Krishi Bhavan, New Delhi, which is under the control of the Ministry of Agriculture, Government of India, and that the respondent institute functions under the authority of the Central Government and that the appropriate Government competent to deal with any industrial dispute is only the Central Government and as such the reference made by the Haryana Government is bad in law. It has been argued that Indian Council of Agricultural Research is an autonomous body and was financed by the Government of India. In para No. 6 of the appointment letter, it is mentioned that the appointment may be terminated without assigning any reason by one month's notice on either side under Rule 5 of the Central Civil Service (Temporary Service) Employees Rules, 1965 as applicable *mutatis mutandis* to the employees of the Council. Rule 2-A of the rules of Indian Council of Agricultural Research lays down that the expression "Society" means the Indian Council of Agricultural Research, a Society registered under the Societies Registration Act, 1850. Reliance has been placed on the award, dated 29th October, 1982 passed by the Presiding Officer, Labour Court, Maduri, in which it was held that the Central Tobacco Research Institute Research Station, Veda sandur was being run under the authority of the Government of India and that the appropriate Government would be the Central Government to make any reference under the Industrial Disputes Act, 1947. It may be mentioned that according to the latest amendment in the Industrial Disputes Act, 1947, which come into force on 21st August, 1984, the scientific research or training institutes have been excluded from the scope of the expression 'Industry' as defined in Section 2-A of the Industrial Disputes Act, 1947. The present dispute between parties however, arose prior to the coming into force of this amendment in as much as reference was made in the year 1982. Therefore the preliminary objection raised by the respondent prevails and it is held that the reference made by the Haryana Government is not proper and as such this Tribunal has no jurisdiction to decide the present reference. The award is passed accordingly.

Dated 9th January, 1985

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad,

Endst. No. 54, dated 10th January, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/5/884-6Lab/344.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s National Dairy Research Institute (I.C.A.R.), Karnal.

BEFORE SHRI R.N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 260/1982

between

SHRI SUGAN CHAND, WORKMAN AND THE MANAGEMENT OF M/S NATIONAL DAIRY  
RESEARCH INSTITUTE (I.C.A.R.), KARNAL

Present.—Shri Sukan Chand, workman in person.

Shri Raj Kumar, for the management.

#### AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Sukan Chand, workman and the management of M/s National Dairy Research Institute (I.C.A.R.), Karnal, to this Tribunal, for adjudication:—

Whether the termination of services of Shri Sukan Chand was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. In the claim statement dated 16th 1982, it was alleged that the claimant was employed as Vehicle Driver on 28th June, 1979 in the respondent management and rendered meritorious services. It was then alleged that the services of the claimant were terminated by the respondent,—*vide* letter dated 1st October, 1981 without giving any show-cause notice or serving any chargesheet, which was against the rules of natural justice and as such the claimant was entitled to reinstatement with full back wages.

3. The respondent in their written statement dated 13th December, 1982, pleaded *inter alia* that the respondent institute was not an industry as defined in the Industrial Disputes Act, 1947, nor the claimant was a workman. It was further pleaded that the services of the claimant were terminated on account of misbehaviour etc., the details of which were given in the written statement.

4. A preliminary objection has been raised by the respondent to the effect that respondent is a research station of the Indian Council of Agricultural Research, Krishi Bhavan, New Delhi, which is under the control of the Ministry of Agriculture, Government of India and that the respondent institute functions under the authority of the Central Government and that the appropriate Government competent to deal with any industrial dispute is only the Central Government and as such the reference made by the Haryana Government is bad in law. It has been argued that Indian Council of Agricultural Research is an autonomous body and was financed by the Government of India. In para No. 6 of the appointment letter, it is mentioned that the appointment may be terminated without assigning any reason by one month's notice on either side under Rule 5 of the Central Civil Service (Temporary Service) Employees Rules, 1965, as applicable *mutatis-mutandis* to the employees of the Council. Rule 2-A of the Rules of Indian Council of Agricultural Research lays-down that the expression "Society" means the Indian Council of Agricultural Research, a Society registered under the Societies Registration Act, 1850. Reliance has been placed on the award dated 29th October, 1982, passed by the Presiding Officer, Maduri, in which it was held that the Central Tobacco Research Institute Research Station, Vedsandur was being run under the authority of the Government of India and that the appropriate Government would be the Central Government to make any reference under the Industrial Disputes Act, 1947. It may be mentioned that according to the latest amendment in the Industrial Disputes Act, 1947, which came into force on 21st August, 1984 the scientific, research, or training institutes have been excluded from this scope of the expression 'industry' as defined in Section 2-A of the Industrial Disputes Act, 1947. The present dispute between the parties however arose prior to the coming into force of this amendment inasmuch as reference was made in the year 1982. Therefore, the preliminary objection raised by the respondent prevails and it is held that the reference made by the Haryana Government is not proper and as such this Tribunal has no jurisdiction to decide the present reference. The award is passed accordingly.

Dated 9th January, 1985

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 55, dated 10th January, 1985

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 22nd January, 1985

No. 9/5/884-6Lab/452.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Frick India Ltd., 13/6, Mathura Road, Faridabad.

IN THE COURT OF SHRI R.N. SINGAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 347 of 1983

*Between*

SHRI RAJENDER PARSHAD, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S.  
FRICK INDIA LTD., 13/6, MATHURA ROAD, FARIDABAD

*Present.*—Shri Manohar Lal for the workman.  
Shri S.L. Gupta for the respondent.

## AWARD

This reference has been referred to this court by the Hon'ble Governor of Haryana, vide his order No. ID/FD-136/83/54953-58, dated 10th October, 1983 under Section 10 (i) (c) of the Industrial Disputes Act, 1947 for adjudication of the industrial dispute existing between the workman Shri Rajender Parshad, workman and the respondent management of M/s. Frick India Ltd., 13/6, Mathura Road, Faridabad. The term of the reference was:—

Whether the termination of services of Shri Rajender Parshad was justified and in order? If not to what relief is he entitled?

According to claim statement the workman was appointed on 11th September, 1982 and his services were terminated on 22nd June, 1983. He had proceeded on leave for 3 days from 7th June, 1983 to 9th June, 1983. He again sent his medical certificate and returned on duty on 22nd June, 1983. He went to the factory on 23rd June, 1983 with the fitness certificate but he was not allowed to join his duty.

In the written statement the management has admitted that the workman was appointed on 11th September 1983. He was kept on probation for a period of six months. His work was not found satisfactory. Hence his probation period was extended upto 10th June, 1983. His services were terminated under clause 3 of the appointment letter. A registered letter was sent to the workman which was received unserved. It was a case of simple termination.

The parties contested the reference on the following issues:—

1. As per reference?
2. Whether the workman is gainfully employed?

I have gone through the file and evidence of the parties. My findings on the issues are as under:—

## Issue No. 1

The management has relied upon the application of the workman which is Ex. M-2. His appointment letter is Ex. M-1. According to the appointment letter Ex. M-1 he was appointed only for six months. His probation was extended for 3 months,—vide letter Ex. M-4. His services were terminated,—vide letter Ex. M-3 dated 12th February, 1983. At the time of termination the workman had not completed 240 days of service within last 12 calendar months. Hence Industrial Disputes Act is not applicable and services of the workman could be terminated. It is a case of termination simplicitor.

The contention of the workman has no force that he cannot be terminated under Section 73 of the ESI Act as he was ill on those days, because the workman was not terminated as he was ill but he was terminated as his probation ended. The workman went on leave and sent medical certificate to avoid his termination simplicitor. I, therefore, find that order of termination is justified and in order?

## Issue No. 2

There is no evidence whatsoever that the workman is gainfully employed. Hence this issue is decided against the management.

In view of the above said findings, I give my award that the order of termination is justified and in order. and he is not entitled to any relief.

Dated 17th September, 1984.

R. N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.

Endst. No. 2218, dated 28th September, 1984

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under Section 15 of the I.D. Act.

R. N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.